IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

THURSDAY, THE 26TH JULY 2007 / 4TH SRAVANA 1929

WP(C).No. 28180 of 2004(D)

PETITIONER:

DR.C.G.USHA,
READER, DEPARTMENT OF HISTORY,
SREE NARAYANA COLLEGE, SIVAGIRI, VARKALA.

BY ADV. SRI.TOM JOSE

RESPONDENTS:

1. VICE CHANCELLOR,
UNIVERSITY OF KERALA, UNIVERSITY OFFICE,
THIRUVANANTHAPURAM.

2. THE MANAGER,
SREE NARAYANA COLLEGES, KOLLAM.

3. THE DIRECTOR OF COLLEGIATE EDUCATION,
VIKAS BHAVAN, THIRUVANANTHAPURAM.

4. THE PRINCIPAL,
SREE NARAYANA COLLEGE, SIVAGIRI, VARKALA.

5. C.MEERA,
LECTURER SELECTION GRADE, DEPARTMENT OF HISTORY,
SREE NARAYANA COLLEGE, SIVAGIRI, VARKALA.

BY ADV. SRI.A.N.RAJAN BABU, SC FOR R2.
SRI.M.K.CHANDRAMOHAN DAS,SC,KERALA UTY.
SRI.M.BALAGOVINDAN
SRI.SASITH.M.R
SRI.S.GOPAKUMARAN NAIR, SC KERALA UTY.
SRI.M.RAJAGOPALAN NAIR, SC, KERALA UTY.
GOVERNMENT PLEADER SRI.A.J.VARGHESE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

Ext.P1: True copy of the order No.UGC Cell II(1)33177/95 dated 21.3.1996.

Ext.P2: True copy of the order No.2/SNT/881 dated 25.2.2004.

Ext.P3: True copy of the seniority list of teachers as on 31.3.1995.

Ext.P4: True copy of the relevant extract of the hand book of the college published for the academic year 2003-2004.

Ext.P5: True copy of the letter No.G1/150/Q3/04 dated 12.5.2004.

Ext.P6: True copy of the seniority rules as per order No.ACF II.1/1366/68 dated 24.8.1985.

Ext.P7: True copy of the order, G.O.(MS)No.132/73/Edn.dated 4.9.1978.

Ext.P8: True copy of the proceedings of the 1st respondent dated 10.8.2004 on the appeal filed by the petitioner.

Ext.P9: True copy of G.O.(MS)No.84/86/H.Edn. Dated 2-4-1986.

Ext.P10: True copy of service order no.2/SNT/1622 dated 15.10.1982.

Ext.P11: True copy of proceedings of the Manager, S.N.Colleges, Quilon dated 9.8.2001.

// True copy //

P.A. To Judge

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A.K.BASHEER, J.

W.P.(C)No.28180 OF 2004

Dated this the 26th day of July, 2007

JUDGMENT

Petitioner is stated to be working as the senior most Reader and Head of Department of History in Sree Narayana College, Sivagiri at Kollam. She impugns Ext.P8 order passed by respondent no.1 to the extent it declares that respondent no.5 is senior to her.

2. A perusal of Ext.P8 order shows that respondent no.1 had in fact directed the management to finalise the provisional list of seniority published on March 31, 1995 after hearing the petitioner, respondent no.5 and all others concerned. In the said seniority list, petitioner was placed at Sl.No.25 whereas respondent no.5 was placed at Sl.No.26. The said placement was upset by respondent no.1 and it was declared that respondent no.5 is senior to the petitioner while directing the management to finalise the provisional seniority list.

3. It is contended by the petitioner that she was appointed as a Junior Lecturer on January 27, 1982. Respondent no.5 was

appointed as a temporary Junior Lecturer on the same day. But it is admitted by the petitioner that she was promoted as lecturer only on March 16, 1984 while respondent no.5 was given promotion on January 27, 1984. According to the petitioner, it is only because her probation was declared a little later because she had availed of leave for 45 days in between. Anyhow, it is the specific case of the petitioner that she was given senior grade in March 1995 while respondent no.5 was given the said status only in 1997. Yet again, petitioner obtained the Ph.D in 1990 whereas respondent no.5 got her Ph.D only in 2004. Petitioner had been working as Reader since November 2003.

4. The primary grievance of the petitioner appears to be that the management had upset her position of seniority without affording her any opportunity. She came to know that she had been treated as junior to respondent no.5 only when she received Ext.P5 communication dated May 12, 2004. She preferred an appeal before respondent no.1 which culminated in Ext.P8 order referred to above.

5. Per contra, it is contended by learned counsel for the management and respondent no.5 that the Administrator in charge of the Trust had prepared the provisional seniority list in terms of the rules and regulations. Since, it is admitted by the petitioner that her probation was declared later than that of respondent no.5, she cannot be heard to say that she had to be placed senior in the cadre of Junior Lecturer. Consequential promotion also followed on the basis of seniority in the entry cadre. It is further contended by the respondents that the management was infact prepared to finalise the seniority list as directed by respondent no.1. But that could not be done because of the pendency of this writ petition. It is further submitted by the learned counsel for the management that the management is prepared to give a quietus to the issue by finalizing the seniority list strictly in accordance with the relevant statutes and provisions contained in the Act and Rules.

6. In the above facts and circumstances, I do not deem it necessary to consider the merit of the rival contentions of the parties. In my view, interest of justice will met, if a direction is

issued to expedite finalization of the seniority list in accordance with the relevant rules and regulations.

7. Therefore, the writ petition is disposed of with a direction to respondent no.2 to finalise the seniority list as directed by respondent no.1 in Ext.P8 order. However, the management shall take a decision in the matter uninfluenced and untrammelled by any of the findings or observations made by respondent no.1 in Ext.P8 order. It is made clear that the finding entered by respondent no.1 shall be treated as non est and inoperative. Respondent no.2 shall afford sufficient opportunity to the petitioner, respondent no.5 and all others concerned, if necessary, before finalization of the list. This shall be done as expeditiously as possible, at any rate, within two months from the date of receipt of a copy of this judgment.

Writ petition is disposed of as above.

A.K.BASHEER, JUDGE

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